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Fed. 441; see *In re William F. Fisher & Co.* (D. C. 1906) 148 Fed. 907, 912; *In re Kallak* (D. C. 1906) 147 Fed. 276, 277. But a trustee questioning a tax claim should have some way to get the claim before the bankruptcy court, which has the power and duty to examine its amount and validity. *In re W. P. Williams Oil Corp.* (D. C. 1920) 265 Fed. 401. By thus obviating the delay incident to payment of the tax under protest and suing for a refund, the final settlement of the bankrupt's estate is expedited. The instant case, therefore, reaches a desirable result.

BONDS—JOINT OBLIGES—NON-JOINDER OF PARTIES.—P obtained a temporary injunction restraining the plaintiff from collecting two judgments for rent and restraining one X from prosecuting a pending action. P gave bond with the defendant as surety, running to the plaintiff and X jointly. The bond was conditioned that P pay the plaintiff and X "all such costs and damages as shall be awarded to anyone or more of the said defendants jointly or severally against the said complainants in case the said injunction shall be dissolved." The injunction was dissolved as to the plaintiff but sustained as to X. Executions upon the plaintiff's judgments were returned "no property found and no part satisfied." Thereupon the plaintiff brought suit against the defendant on the bond, but failed to join X. *Held*, for the defendant. *Baker v. Peterson* (Ill. 1921) 133 N. E. 214.

As a matter of strict common law the case is undoubtedly sound. *McMahon v. Webb* (1876) 52 Miss. 424. One state, however, has allowed the joint obligee who has been damaged to sue without joining the others. *White v. Bowman* (Tenn. 1882) 10 Lea 55. New York reached the same result by statute. *Pearce v. Hitchcock* (1849) 2 N. Y. 388. In some jurisdictions under statutes providing that no action shall be defeated by the non-joinder of parties and that parties may be added or substituted by order of the court at any stage of the cause as ends of justice may require, the plaintiff would not have failed. N. J. Prac. Act (1912) § 9; N. Y. Civ. Prac. Act § 192. It should be noted that in the instant case the court bases its decision upon the granting clause and refuses to give any effect whatever to the condition. The result is unfortunate. Of course the plaintiff could have joined his joint obligee. See *Painter v. Munn* (1897) 117 Ala. 322, 338, 23 So. 83; *McMahon v. Webb*, *supra*, 425. The plaintiff was deprived of a meritorious claim because of a mistake in pleading. A result more equitable and more consonant with the merits of the case would have been reached if the court had ignored the granting clause and merely considered the condition. Such procedure is not unusual. In determining damages upon penal bonds, courts only consider the condition and refuse to enforce the penalty stipulated in the granting clause. *Moore v. Kline* (1914) 26 Colo. App. 334, 143 Pac. 262; *Summit v. Morris Traction Co.* (1913) 85 N. J. L. 193, 88 Atl. 1048; *O'Brien v. Illinois Surety Co.* (C. C. A. 1913) 203 Fed. 436.

CONSTITUTIONAL LAW—FOREIGN CORPORATIONS—SERVICE ON AGENTS—CAUSES OF ACTION ARISING OUTSIDE OF STATE.—The defendant, a foreign corporation, was sued on a contract to be executed outside the state. Service was had on the defendant's agent, appointed as required by statute, to receive service. The defendant at the time of service, had not done work in the state for nearly a year, and had removed its workmen and property. *Held*, for the defendant. The corporation, by appointing an agent, has agreed to be bound by the statute. But since the state has not held that compliance with the statute gives it jurisdiction when the corporation has ceased to do business in the state, the federal court will not so construe it, and therefore the service is bad. *The Robert Mitchell Furniture Co. v. Selden Breck Construction Co.* (1921) 42 Sup. Ct. 84.

A state may impose conditions on a foreign corporation seeking to do busi-